



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,610	08/03/2001	Richard B. Himmelstein	4159-4003US1	7495

27123 7590 11/16/2004
MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/921,610	Applicant(s) HIMMELSTEIN, RICHARD B.	
	Examiner Firmin Backer	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 19th, 2004 has been entered.

Response to Amendment

2. An amendment has been filed with the submission of the RCE. In the amendment, claims 100, 103, 104, 118, 119, 124 and 129 have been amended. Claims 100-104, 107, 108 and 111-133 are pending in the letter.

Response to Arguments

3. Applicant's arguments with respect to claims 100-104, 107, 108 and 111-133 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 3621

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 100-104, 107, 108 and 111-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minton (U.S. PG Pub No. 2002/0091611) in view of Rickard et al (U.S. Patent No. 6,112,189).

6. As per claims 100, 103, 104, 119, 124 and 129 Minton teaches a method for facilitating the bartering of publicly traded securities on a computerized system comprising receiving and communicating on a computerized system a first barter from a user a first security including a quantity thereof to be sold in a barter, a second security including a quantity thereof to be purchased in the barter, and a condition relating to the value of the barter order which condition the barter may be executed (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*). Minton further teaches comparing the first security to be sold and the second security to be purchased in the barter a condition relating to the value of the barter and determining a selected barter order which if executed will consummate the first and multiple barter and transmitting an indication that the barter order may be executed and receiving from the user a request to execute the barter order (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*). Minton fail to teach an inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security. However, Rickard et al teach an inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security (*see column 20 lines 41-21 line 46*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the

Art Unit: 3621

inventive concept of Minton to include Rickard et al's inventive concept wherein the second security different from the first security and the purchased is concurrent with the sale of the first security because this would have maximized the mutual satisfaction function, which establishes a set of prices, volumes and parties for trading each of the securities, and executing simultaneously a trade among the identified parties for the multiple securities at the established prices and volumes at the same time.

7. As per claims 101, 102, 105, 106, 111-118, 120-123, 125-128 and 130-133, they depend upon claims 100, 103, 104, 119, 124 and 129 and disclosed the same inventive concept.

Therefore, they are rejected under the same rationale.

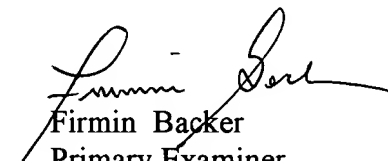
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Backer
Primary Examiner
Art Unit 3621

November 12, 2004